

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Bahram Maghazehe)
a.k.a. Benjamin Maghazehe)
a.k.a. Ben Maghazehe)
154 Sequoia Drive)
Newtown, Pennsylvania 18940)
)
Respondent)

ORDER RELATING TO BAHRAM MAGHAZEHE A.K.A. BENJAMIN
MAGHAZEHE A.K.A. BEN MAGHAZEHE

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Bahram Maghazehe a.k.a. Benjamin Maghazehe a.k.a. Ben Maghazehe (“Maghazehe”) of its intention to initiate an administrative proceeding against Maghazehe pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Maghazehe that alleged that he committed one violation of the Regulations. Specifically, the charge is:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violation occurred in 2007. The Regulations governing the violations at issue are found in the 2007 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2007)). The 2011 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

Charge 1**15 C.F.R. § 764.2(h) – Evasion**

Beginning in or about February 2007 and continuing through in or about June 2007, Maghazehe engaged in a transaction or took other action with intent to evade the provisions of the Regulations.

Specifically, Maghazehe worked with a U.S. company to arrange for the export without a license from the United States through the United Arab Emirates to Iran of a Varian Ximatron oncology system, which was subject to the Regulations,³ and the Iranian Transactions Regulations (“ITR”)⁴ and had a declared value of \$5,000. Pursuant to Section 560.204 of the Iranian Transactions Regulations (“ITR”) maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Maghazehe had knowledge that a U.S. hospital was discarding the oncology system and that a company in Iran with which he had a business relationship wanted to acquire the equipment. To enable the delivery of the oncology system to the Iranian company, Maghazehe worked with a U.S. company to arrange for the de-installation and removal of the equipment from the U.S. hospital and the export of the equipment from the United States. Maghazehe informed the U.S. company that the oncology system was destined for Iran, and, on or about June 7, 2007, when asked by the U.S. company’s representative if he wanted to make a “legal export,” indicated by shaking his head no that he did not want to do so. Maghazehe provided the U.S. company with a United Arab Emirates address, which he intended for the U.S. company to provide to the freight forwarder and for the freight forwarder to provide to the U.S. Government as the ultimate destination of the item, thereby obscuring the actual final destination of the equipment, Iran. These acts were taken to export the U.S.-origin equipment to Iran without the required U.S. Government authorization and avoid detection by law enforcement. Ultimately, the equipment was seized by the U.S. Government.

In so doing, Maghazehe committed one violation of Section 764.2(h) of the Regulations.

WHEREAS, BIS and Maghazehe have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

³ The item is designated as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2007).

⁴ 31 C.F.R. Part 560 (2007).

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that for a period of six (6) years from the date of entry of the Order, Bahram Maghazehe a.k.a. Benjamin Maghazehe a.k.a. Ben Maghazehe, with a last known address of 154 Sequoia Drive, Newtown, Pennsylvania 18940, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

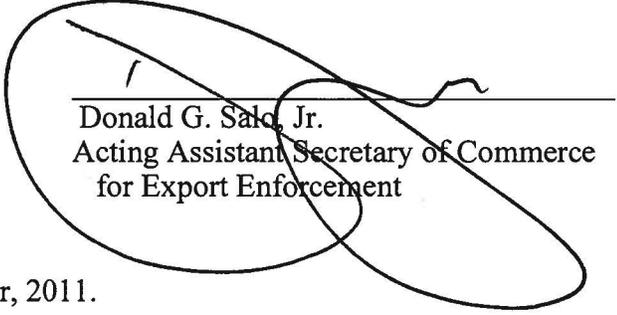
THIRD, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the

conduct of trade or related services may also be made subject to the provisions of the Order.

FOURTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

FIFTH, that this Order shall be served on Maghazehe and on BIS, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Donald G. Sald, Jr.
Acting Assistant Secretary of Commerce
for Export Enforcement

Issued this 22^d day of September, 2011.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Bahram Maghazehe)
a.k.a. Benjamin Maghazehe)
a.k.a. Ben Maghazehe)
154 Sequoia Drive)
Newtown, Pennsylvania 18940)
)
Respondent _____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Bahram Maghazehe a.k.a. Benjamin Maghazehe a.k.a. Ben Maghazehe (“Maghazehe”) and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified Maghazehe of its intention to initiate an administrative proceeding against him, pursuant to the Act and the Regulations;

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violation occurred in 2006. The Regulations governing the violations at issue is found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

WHEREAS, BIS has issued a Proposed Charging Letter to Maghazehe that alleged that Maghazehe committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(h) – Evasion

Beginning in or about February 2007 and continuing through in or about June 2007, Maghazehe engaged in a transaction or took other action with intent to evade the provisions of the Regulations.

Specifically, Maghazehe worked with a U.S. company to arrange for the export without a license from the United States through the United Arab Emirates to Iran of a Varian Ximatron oncology system, which was subject to the Regulations,³ and the Iranian Transactions Regulations (“ITR”)⁴ and had a declared value of \$5,000. Pursuant to Section 560.204 of the Iranian Transactions Regulations (“ITR”) maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Maghazehe had knowledge that a U.S. hospital was discarding the oncology system and that a company in Iran with which he had a business relationship wanted to acquire the equipment. To enable the delivery of the oncology system to the Iranian company, Maghazehe worked with a U.S. company to arrange for the de-installation and removal of the equipment from the U.S. hospital and the export of the equipment from the United States. Maghazehe informed the U.S. company that the oncology system was destined for Iran, and, on or about June 7, 2007, when asked by the U.S. company’s representative if he wanted to make a “legal export,” indicated by shaking his head no that he did not want to do so. Maghazehe provided the U.S. company with a United Arab Emirates address, which he intended for the U.S. company to provide to the freight forwarder and for the freight forwarder to provide to the U.S. Government as the ultimate destination of the item, thereby obscuring the actual final destination of the equipment, Iran. These acts were taken to export the U.S.-origin equipment to Iran without the required U.S. Government authorization and avoid detection by law enforcement. Ultimately, the equipment was seized by the U.S. Government.

In so doing, Maghazehe committed one violation of Section 764.2(h) of the Regulations.

³ The item is designated as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2007).

⁴ 31 C.F.R. Part 560 (2007).

WHEREAS, Maghazehe has reviewed the Proposed Charging Letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Maghazehe fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Maghazehe enters into this Agreement voluntarily and with full knowledge of his rights, after consultation with his counsel;

WHEREAS, the Parties enter into this Agreement having taken into consideration a plea agreement and plea entered by Maghazehe in the U.S. District Court for the Southern District of New York;

WHEREAS, Maghazehe states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

WHEREAS, Maghazehe neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, Maghazehe wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, Maghazehe agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Maghazehe, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
-

2. The following sanction shall be imposed against Maghazehe in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:

a. For a period of six (6) years from the date of issuance of the Order, Bahram Maghazehe a.k.a. Benjamin Maghazehe a.k.a. Ben Maghazehe, with a last known address of 154 Sequoia Drive, Newtown, Pennsylvania 18940, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

i. Applying for, obtaining, or using any license, License Exception, or export control document;

ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to Paragraph 9 hereof, Maghazehe hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

4. Maghazehe shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Maghazehe's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this

Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

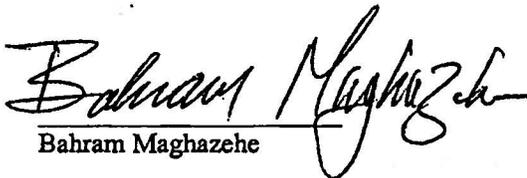
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Douglas R. Hassebrock
Director
Office of Export Enforcement

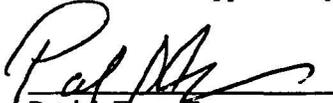
Date: September 19, 2011



Bahram Maghazehe

Date: September 16, 2011

Reviewed and Approved by:



Patrick Egan, Esq.
Counsel for Bahram Maghazehe

Date: September 16, 2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bahram Maghazehe
154 Sequoia Drive
Newtown, Pennsylvania 18940

Dear Mr. Maghazehe:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Bahram Maghazehe a.k.a. Benjamin Maghazehe a.k.a. Ben Maghazehe (“Maghazehe”), of Newtown, Pennsylvania, have committed one violation of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that Maghazehe committed the following violation:

Charge 1 15 C.F.R. § 764.2(h) – Evasion

Beginning in or about February 2007 and continuing through in or about June 2007, Maghazehe engaged in a transaction or took other action with intent to evade the provisions of the Regulations.

Specifically, Maghazehe worked with a U.S. company to arrange for the export without a license from the United States through the United Arab Emirates to Iran of a Varian Ximatron oncology system, which was subject to the Regulations,³ and the Iranian Transactions Regulations (“ITR”)⁴ and had a declared value of \$5,000. Pursuant to Section 560.204 of the Iranian Transactions Regulations (“ITR”) maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the

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² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

³ The item is designated as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2007).

⁴ 31 C.F.R. Part 560 (2007).

exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Maghazehe had knowledge that a U.S. hospital was discarding the oncology system and that a company in Iran with which he had a business relationship wanted to acquire the equipment. To enable the delivery of the oncology system to the Iranian company, Maghazehe worked with a U.S. company to arrange for the de-installation and removal of the equipment from the U.S. hospital and the export of the equipment from the United States. Maghazehe informed the U.S. company that the oncology system was destined for Iran, and, on or about June 7, 2007, when asked by the U.S. company's representative if he wanted to make a "legal export," indicated by shaking his head no that he did not want to do so. Maghazehe provided the U.S. company with a United Arab Emirates address, which he intended for the U.S. company to provide to the freight forwarder and for the freight forwarder to provide to the U.S. Government as the ultimate destination of the item, thereby obscuring the actual final destination of the equipment, Iran. These acts were taken to export the U.S.-origin equipment to Iran without the required U.S. Government authorization and avoid detection by law enforcement. Ultimately, the equipment was seized by the U.S. Government.

In so doing, Maghazehe committed one violation of Section 764.2(h) of the Regulations.

* * * * *

Accordingly, Maghazehe is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions and any other liability sanction or penalty available under law, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Maghazehe fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Maghazehe defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Maghazehe. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Maghazehe is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Maghazehe is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Maghazehe have a proposal to settle this case, Maghazehe should transmit it to the attorney representing BIS named below.

Maghazehe is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Maghazehe may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Maghazehe's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Maghazehe's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Thea D. R. Kendler, Esq.
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Thea D. R. Kendler is the attorney representing BIS in this case; any communications that Maghazehe may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement